

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 11, 2005

AMENDED IN SENATE APRIL 26, 2005

**SENATE BILL**

**No. 1087**

**Introduced by Senator Florez**

February 22, 2005

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An act to amend Section 65589.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as amended, Florez. Housing elements: services.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. That law also requires that the housing element adopted by the legislative body of the city, county, or city and county and any amendments made to that element be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body.

The Planning and Zoning Law also requires each public agency or private entity providing these services to grant a priority for the provision of available and future resources or services to proposed housing developments that help meet the legislative body's share of the regional housing need for lower income households as identified in the housing element and any amendments to the housing element.

This bill would require that the adopted housing element and any amendments be delivered immediately to all public agencies or private entities that provide water ~~resources or services or connections~~ at retail or sewer ~~resources or services or connections~~, as specified, would apply these provisions to proposed developments that include housing units affordable to lower income households, and would require, on or before July 1, 2006, that these public agencies or private entities adopt a written policy with specific objective standards for the allocation of these services in conformance with these provisions *if these public agencies or private entities operate under a policy or legislative action that limits the amount of services or connections available in any given period*. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

This bill would also provide that a provider of water or sewer services *or connections* may not deny or condition the approval of an application for services *or connections*, or reduce the amount of the services *or connections* applied for, if the proposed development includes housing affordable to lower income households and would authorize an appropriate civil action to enforce the provisions of the bill, as specified.

The bill would make these provisions applicable to charter cities.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65589.7 of the Government Code is
- 2 amended to read:
- 3 65589.7. (a) The housing element adopted by the legislative
- 4 body and any amendments made to that element shall be

1 immediately delivered to all public agencies or private entities  
 2 that provide water ~~resources or services~~ *services or connections*  
 3 at retail or sewer ~~resources or services~~ *services or connections*  
 4 within the territory of the legislative body. When allocating or  
 5 making plans for the allocation of ~~available and future resources~~  
 6 ~~or services~~ *services or connections* designated for residential use,  
 7 each public agency or private entity providing water ~~resources or~~  
 8 ~~services~~ *services or connections* at retail or sewer ~~resources or~~  
 9 ~~services~~ *services or connections*, shall grant a priority for the  
 10 provision of these ~~available and future resources or services~~  
 11 *services or connections* to proposed developments that include  
 12 housing units affordable to lower income households.

13 (b) (1) (A) On or before July 1, 2006, the public agency, or  
 14 private entity providing *services or connections* as provided in  
 15 subdivision (a); *that is operating under a policy or legislative*  
 16 *action that in any way limits the amount of services or*  
 17 *connections available in any given time period* shall adopt a  
 18 written policy with specific objective standards for allocation of  
 19 services in conformance ~~with this section. The policy shall~~  
 20 ~~address, but not be limited to (1) how the need for housing for all~~  
 21 ~~income groups will be met, and (2) how water or sewer resources~~  
 22 ~~or services will be increased if necessary to meet the priority in~~  
 23 ~~subdivision (a). with this section.~~

24 (B) *If a public agency or private entity begins to operate under*  
 25 *a policy or legislative action that is adopted after July 1, 2006,*  
 26 *and that limits the amount of services or connections available in*  
 27 *any given time period and if that public agency or private entity*  
 28 *has not adopted a written policy as required by paragraph (1),*  
 29 *that public agency or private entity shall, within six months of the*  
 30 *effective date of that policy or legislative action, adopt a written*  
 31 *policy with specific objective standards for the allocation of*  
 32 *services or connection in conformance with this section.*

33 (2) (A) *A public agency or private entity shall update the*  
 34 *written policy adopted pursuant to this subdivision every five*  
 35 *years from the date of its adoption.*

36 (B) *If a public agency or private entity receives a housing*  
 37 *element or amendments to a housing element from a jurisdiction*  
 38 *within which the public agency or private entity provides services*  
 39 *before the five year update is due, it shall update its written*

1 *policy within six months of the receipt of that housing element or*  
2 *those amendments.*

3 *(3) The policy shall address, but not be limited to, each of the*  
4 *following issues:*

5 *(A) How the need for housing for all income groups will be*  
6 *met.*

7 *(B) How water or sewer services or connections will be*  
8 *increased if necessary to meet the need for housing units*  
9 *affordable to lower income households.*

10 *(C) The methodology used to determine or establish the*  
11 *restricted services or connections.*

12 *(D) The procedures by which the applicant for a development*  
13 *containing units affordable to lower income households may*  
14 *obtain services or connections.*

15 ~~(c) The provider of water or sewer resources or services~~  
16 ~~services or connections as provided in subdivision (a) shall not~~  
17 ~~deny or condition the approval of an application for services or~~  
18 ~~connections, or reduce the amount of services or connections~~  
19 ~~applied for, if the denial, condition, or reduction is based in~~  
20 ~~whole or in part on the inclusion of housing units affordable to~~  
21 ~~lower income households.~~

22 ~~(d) The following definitions apply for purposes of this section:~~

23 ~~(1) “Housing”~~ *“Proposed developments that include housing*  
24 *units affordable to lower income households” means dwelling*  
25 *units that are that at least 25 percent of the total dwelling units*  
26 *shall be sold or rented to lower income households, as defined in*  
27 *Section 50079.5 of the Health and Safety Code, at an affordable*  
28 *housing cost, as defined in Section 50052.5 of the Health and*  
29 *Safety Code, or an affordable rent, as defined in Section 50053 of*  
30 *the Health and Safety Code, and restricted by legally sufficient*  
31 *commitments to ensure continued availability of units to lower*  
32 *income households in accordance with the provisions of this*  
33 *subdivision for at least 30 years 10 years for units that are sold*  
34 *and 30 years for units that are rented.*

35 ~~(2) “Water resources or services services or connections at~~  
36 ~~retail” means supplying water directly to the end user or~~  
37 ~~consumer of that water, and does not include sale by a water~~  
38 ~~supplier to another water supplier for resale.~~

39 ~~(e) This section is intended to neither enlarge nor diminish the~~  
40 ~~existing authority of a city, county or city and county in adopting~~

1 a housing element. Failure to deliver a housing element adopted  
2 by the legislative body or amendments made to that element, to a  
3 public agency or private entity providing water ~~resources or~~  
4 ~~services~~ *services or connections* at retail or sewer ~~resources or~~  
5 ~~services~~ *services or connections* shall neither invalidate any  
6 action or approval of a development project nor exempt a public  
7 agency, private entity, or special district from the obligations  
8 under this section. The special districts which provide water  
9 ~~resources or services~~ *services or connections* at retail or sewer  
10 ~~resources or services~~ *services or connections* related to  
11 development, as defined in subdivision (e) of Section 56426, are  
12 included within this section.

13 (f) Any ~~applicant for service, or a resident or organization~~  
14 ~~within the service area, beneficially interested party~~ may bring an  
15 action pursuant to Section 1085 or 1094.5 of the Code of Civil  
16 Procedure, as appropriate, to enforce the provisions of this  
17 section. Relief granted pursuant to an action shall include, but is  
18 not limited to, injunctive relief and damages.

19 (g) The Legislature finds and declares that this section shall be  
20 applicable to all cities and counties, including charter cities,  
21 because the Legislature finds that the lack of affordable housing  
22 is a matter of vital statewide importance.

23 SEC. 2. The Legislature finds and declares that Sections  
24 65104 and 66014 of the Government Code provide local agencies  
25 with authority to levy fees sufficient to pay for the program or  
26 level of service mandated by this act.

27 SEC. 3. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 a local agency or school district has the authority to levy service  
30 charges, fees, or assessments sufficient to pay for the program or  
31 level of service mandated by this act, within the meaning of  
32 Section 17556 of the Government Code.

33 However, if the Commission on State Mandates determines  
34 that this act contains other costs mandated by the state,  
35 reimbursement to local agencies and school districts for those  
36 costs shall be made pursuant to Part 7 (commencing with Section  
37 17500) of Division 4 of Title 2 of the Government Code.